

R E M A R K S

Claims 1 - 36 are pending in the present application.
Claims 1, 6, 11 - 13, 17, 21 - 25 and 31 are independent.

Section 103(a) Rejections

Claims 1 - 24 are rejected as being unpatentable over a combination of U.S. Patent No. 5,548,110 to Storch, U.S. Patent No. 5,772,510 to Roberts, and an abstract of an article entitled "Heads I win, tails you lose", of The Economist, June 13, 1992.

Claims 25 - 36 have been rejected on official notice.

Applicants respectfully traverse the Examiner's Section 103(a) rejection.

Independent Claims 1, 6, 11 and 12

Claims 1, 6, 11 and 12 are rejected under a combination of Storch, Roberts, and The Economist. In summary, the cited references, alone or in combination, do not disclose or suggest:

*allocating a portion of a ticket
much less*

the portion being based on the monetary value

much less any of the claimed steps of

allocating a portion of a ticket, the portion being based on the monetary value

allocating a portion of each ticket of a plurality of tickets, the portion of each ticket being associated with a portion of the monetary value

outputting a plurality of ticket identifiers that identify the plurality of tickets and a plurality of portion identifiers that identify the allocated portions of each ticket

storing the ticket identifier and the portion identifier

Cited portions of Storch

Storch generally describes various schemes for encoding information in bar codes, including representing fractions in bar codes. Regarding lottery tickets, Storch discloses generally that the bar codes of Storch may be used on lottery tickets to detect fraud. Also, bar codes may be read at the point-of-sale.

The Examiner has cited several portions of Storch as suggesting various limitations of the pending claims. However, the Examiner does not at all indicate which portions of Storch suggest which claim limitations. Applicants have reviewed the cited portions and believe that they do not at all suggest the claimed limitations.

Applicants have categorized these cited portions as follows: Bar Code Formats, Lottery Ticket, Processes for Reading Bar Codes, and Hardware Diagram:

Bar Code Formats

FIG. 1; FIG. 2; FIG. 28; FIG. 31; FIG. 32; FIG. 34; Col. 6, lines 26 - 48; Col. 8, lines 17 - 40; and Col. 70, lines 50 - 64.

Lottery Ticket

FIG. 22; and Col. 13, lines 27 – 30

Processes for Reading Bar Codes

FIG. 24; FIG. 25; and Col 132, lines 33 – 50

Hardware Diagram

FIG. 29; FIG. 50

None of the cited Bar Code Formats, Lottery Ticket, Processes for Reading Bar Codes, or Hardware Diagram disclose or suggest:

allocating a portion of a ticket
much less

the portion being based on the monetary value
much less the claimed steps which include the above.

Cited portions of Roberts

Roberts generally describes a lottery ticket with a blank region to have a number printed thereon. The Examiner has cited several portions of Roberts as suggesting various limitations of the pending claims.

FIG. 2B, element 20b of Roberts is ticket completion information printed on a ticket in human readable format. In FIG. 2B, it is represented as a 16 digit number.

Col. 4, lines 5 – 65 of Roberts generally describes the printing of a lottery ticket, in particular the printing of additional information in addition to information pre-printed on the ticket. Subsequently, it may then be determined if the ticket has won.

Col. 6, lines 54 – 55 of Roberts states that ticket completion information necessary to provide a completed lottery ticket is the ticket completion information 20a (in bar code format) and 20b (in human readable format).

Nothing in Roberts suggests

allocating a portion of a ticket
much less

the portion being based on the monetary value
much less the claimed steps which include the above.

Dependent claims **2 – 5 and 7 – 10** are likewise patentable at least because they depend from independent claims which are patentable.

Independent Claims 13 and 17

Claims 13 - 20 are rejected under a combination of Storch, Roberts, and The Economist. In summary, as described previously, the cited references, alone or in combination, do not disclose or suggest:

allocating at least a portion of a ticket
much less

the portion being based on the monetary value
much less the claimed steps which include the above.

Dependent claims 14 – 16 and 18 – 20 are likewise patentable at least because they depend from independent claims which are patentable.

Claims 21 - 36

The rejections of claims 21 – 36 is improper because the Examiner has provided no facts in the record that show the claims to be obvious in light of the prior art. Applicants respectfully request a reference pursuant to MPEP 2144.03 in order to describe the official noted subject matter in more detail.

These rejections are merely (i) a statement that the invention was well known, and (ii) a reference to a portion of Roberts. One such portion of Roberts merely states that ticket completion information necessary to provide a completed lottery ticket is the ticket completion information 20a (in bar code format), 20b (in human readable format). The other portion of Roberts merely states that lottery tickets may be dispensed from a vending machine.

Improper Use of Official Notice

Without evidence of such subject matter in the record, Applicants dispute all of the various assertions in the Office Action regarding what is well known. Applicants likewise dispute all assertions which were not proper factual findings because they are conclusions without support in the record.

Officially-noted subject matter cannot be used as the primary basis for a rejection under 103. In other words, official notice alone of what existed in the prior art is not permitted. A reference must be provided to show the scope and content of the prior art.

See, In re Eynde, 480 F.2d 1364 (C.C.P.A. 1973) ("[W]e reject the notion that judicial or administrative notice may be taken of the state of the art. Facts constituting the state of the art in a patent case are normally subject to the possibility of rational disagreement among reasonable men, and **are not amenable to the taking of judicial or administrative notice.**") (emphasis added);

In re Pardo, 684 F.2d 912 (C.C.P.A. 1982) ("[T]his court will always construe [the rule permitting judicial notice] narrowly and will regard facts found in such manner with an eye toward narrowing the scope of any conclusions to be drawn therefrom. Assertions of technical facts in areas of esoteric technology **must always be supported by citation to some reference work** recognized as standard in the pertinent art and the appellant given, in the Patent Office, the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference.") (emphasis added)

Official Notice may be used, if at all, to clarify the meaning of a reference. See, e.g., In re Ahlert, 424 F.2d 1088 (C.C.P.A. 1969) ("Typically, it is found necessary to take notice of facts

which may be used to supplement or clarify the teaching of a reference disclosure, perhaps to justify or explain a particular inference to be drawn from the reference teaching.") (emphasis added).

Claim Amendments

Claim 25 has been amended to correct a typographical error.

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Petition for Extension of Time to Respond

Applicants hereby petition for a **three-month** extension of time with which to respond to the Office Action. Please charge \$460.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,



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Date

S P E C I F I C A T I O N A M E N D M E N T S
M A R K E D U P F O R M

Please REPLACE the paragraph that begins on page 1, line 16 with the following paragraph:

U.S. Patent Application Ser. No. 09/045,084 [], entitled METHOD AND APPARATUS FOR CONTROLLING OFFERS THAT ARE PROVIDED AT A POINT-OF-SALE TERMINAL, now U.S. Patent No. 6,223,163 [(Attorney Docket No. WD2-97-564)], U.S. Patent Application Ser. No. 09/045,518 [], entitled METHOD AND APPARATUS FOR PROCESSING A SUPPLEMENTARY PRODUCT AT A POINT-OF-SALE TERMINAL [(Attorney Docket No. WD2-97-561)], U.S. Patent Application Ser. No. 09/045,386 [], entitled METHOD AND APPARATUS FOR CONTROLLING THE PERFORMANCE OF A SUPPLEMENTARY PROCESS AT A POINT-OF-SALE TERMINAL [(Attorney Docket No. WD2-97-557)], and U.S. Patent Application Ser. No. 09/045,347 [], entitled METHOD AND APPARATUS FOR PROCESSING A SUPPLEMENTARY PRODUCT SALE AT A POINT-OF-SALE TERMINAL [(Attorney Docket No. WD2-97-559)], each assigned to the assignee of the present invention and incorporated by reference herein.

C L A I M A M E N D M E N T S
M A R K E D U P F O R M

Please **AMEND** the claims as follows:

25. (AMENDED) A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising:

maintaining a supply of tickets, each ticket having an unallocated portion thereof; and
acquiring an additional ticket.